

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA

IN RE BARD IVC FILTERS
PRODUCTS LIABILITY LITIGATION

No. MD-15-02641-PHX-DGC

**THIRD AMENDED MASTER
SHORT FORM COMPLAINT FOR
DAMAGES FOR INDIVIDUAL
CLAIMS AND DEMAND FOR JURY
TRIAL**

Plaintiff(s) named below, for their Complaint against Defendants named below, incorporate the Master Complaint for Damages in MDL 2641 by reference (Doc.364), and, pursuant to Rule 15, F.R.C.P., with written consent of Defendants (attached as Exhibit A), Plaintiff(s) hereby file their Third Amended Master Short Form Complaint, and further show the Court as follows:

1. Plaintiff/Deceased Party:

2. Spousal Plaintiff/Deceased Party's spouse or other party making loss of consortium claim:

3. Other Plaintiff and capacity (i.e., administrator, executor, guardian, conservator):

4. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of implant: _____

5. Plaintiff's/Deceased Party's state(s) [if more than one Plaintiff] of residence at the time of injury: _____

6. Plaintiff's current state(s) [if more than one Plaintiff] of residence:

7. District Court and Division in which venue would be proper absent direct filing:

8. Defendants (check Defendants against whom Complaint is made):

☒ C.R. Bard Inc.

☒ Bard Peripheral Vascular, Inc.

9. Basis of Jurisdiction:

☒ Diversity of Citizenship

☐ Other: _____

a. Other allegations of jurisdiction and venue not expressed in Master Complaint:

10. Defendants' Inferior Vena Cava Filter(s) about which Plaintiff(s) is making a claim (Check applicable Inferior Vena Cava Filter(s)):

☐ Recovery[®] Vena Cava Filter

☐ G2[®] Vena Cava Filter

☐ G2[®] Express Vena Cava Filter

☐ G2[®] X Vena Cava Filter

☐ Eclipse[®] Vena Cava Filter

☐ Meridian[®] Vena Cava Filter

☐ Denali[®] Vena Cava Filter

☐ Other: _____

11. Date of Implantation as to each product:

12. Counts in the Master Complaint brought by Plaintiff(s):

✓ Count I: Strict Products Liability – Manufacturing Defect

✓ Count II: Strict Products Liability – Information Defect

(Failure to Warn)

✓ Count III: Strict Products Liability – Design Defect

✓ Count IV: Negligence - Design

✓ Count V: Negligence - Manufacture

✓ Count VI: Negligence – Failure to Recall/Retrofit

✓ Count VII: Negligence – Failure to Warn

✓ Count VIII: Negligent Misrepresentation

✓ Count IX: Negligence *Per Se*

✓ Count X: Breach of Express Warranty

✓ Count XI: Breach of Implied Warranty

✓ Count XII: Fraudulent Misrepresentation

✓ Count XIII: Fraudulent Concealment

☐ Count XIV: Violations of Applicable ____ (insert state) Law

Prohibiting Consumer Fraud and Unfair and Deceptive Trade Practices

✓ Count XV: Loss of Consortium

- ☐ Count XVI: Wrongful Death
- ☐ Count XVII: Survival
- ☒ Punitive Damages
- ☐ Other(s): _____ (please state the facts supporting this Count in the space immediately below)

RESPECTFULLY SUBMITTED this _____ day of _____, 2017.

s/ John T. Kirtley, III
JOHN T. KIRTLEY, III
Texas Bar No. 11534050
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P.O. Box 199109
Dallas, Texas 75219
(214) 521-4412
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jkirtley@lawyerworks.com
Asst. molvera@lawyerworks.com
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ATTORNEY FOR THE PLAINTIFF

I hereby certify that on this _____ day of _____, 2017, I electronically transmitted the attached document to the Clerk's Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing.

/s/ JOHN KIRTLEY

EXHIBIT A

From: Sheridan, Amanda [<mailto:asheridan@swlaw.com>]
Sent: Wednesday, September 13, 2017 4:21 PM
To: James Hearon <JHearon@lawyerworks.com>; Condo, Jim <jcondo@swlaw.com>;
'Richard.North@nelsonmullins.com' <Richard.North@nelsonmullins.com>
Subject: RE: Bard MDL - Amending a complaint

James,

Bard does not oppose the amendment. Thanks.

Amanda Sheridan
Office: 602.382.6304
Fax: 602.382.6070

From: James Hearon [<mailto:JHearon@lawyerworks.com>]
Sent: Wednesday, September 13, 2017 11:26 AM
To: Condo, Jim; Sheridan, Amanda; 'Richard.North@nelsonmullins.com'
Subject: Bard MDL - Amending a complaint

Dear lead counsel,

I have a case filed for a client in the Bard MDL. We have learned since we filed that the spelling of the spousal plaintiff's first name on the complaint and civil cover sheet is incorrect. The filing number is 2:15-md-2641-DGC, and we would like to update the spelling of the spousal plaintiff from Diane Tubbs to Diana Tubbs.

Do you oppose this amendment?

Thank you

<image001.jpg>

JAMES HEARON

Attorney

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